

ESTABLISHING A GUARDIANSHIP

King County Superior Court Facilitators: Instruction # G-1
King County Local Rule 98.20
RCW Title 11, Chapters 88 and 92

It is the intent of the legislature to protect the liberty and autonomy of all people of this state and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs. RCW 11.88.005.

A Guardian of three or more incapacitated persons (who are not family), and who charges fees for his or her guardianship services, is deemed to be a “professional guardian,” and must meet the certification requirements for professional guardians established by the administrator for the courts. RCW 11.88.008 and 11.88.020

STEP 1: OBTAIN THE FOLLOWING FORMS

- [Petition for Guardianship of Person and/or Estate](#)
- [Case Assignment Designation and Case Information Cover Sheet](#)
- [Order Appointing Guardian ad Litem and Notice of Hearing](#)
- [Notice of Guardianship Petition](#)
- [Declaration of Service](#)
- [Declaration of Proposed Guardian-Non-Certified](#) or [Certified](#), (as appropriate)
- Declaration of Completing Mandated Guardianship Training (required only if the proposed guardian is not a certified professional guardian)
- [Order Appointing Guardian of Person and/or Estate](#)
- [Oath of Guardian](#)
- [Designation of Standby Guardian](#)
- [Initial Personal Care Plan](#) (if seeking a guardianship of the person)
- [Guardianship Inventory](#) (if seeking a guardianship of the estate)

STEP 2: COMPLETE FORMS, MAKE COPIES AND COMPLETE MANDATED GUARDIANSHIP TRAINING

Complete all forms except the Designation of Standby Guardian, Initial Personal Care Plan, and Guardianship Inventory, which can be completed after the appointment of the guardian.

- The hearing on your Petition for Guardianship must be held not later than 60 days after the date the Petition is filed with the Clerk. The courtroom clerk will insert the date of the hearing in the **Order Appointing Guardian ad Litem and Notice of Hearing** form. Insert 10:30 a.m. as the time/hour of the hearing. The department for the hearing is Ex Parte/Probate. The address for cases to be heard in Seattle (case number ending in SEA) is: King County Superior Court, 516 Third Ave., Room W325, Seattle, WA 98104; The address for cases to be heard in Kent (case number ending in KNT) is: Regional Justice Center, 401 Fourth Ave. North, Room 1J, Kent, WA 98032. Additional important information on completing the **Order Appointing Guardian ad Litem and Notice of Hearing** can be found in Step 4, below.
- Make at least four copies of the following completed, signed and dated forms:
 - **Petition for Guardianship of Person and/or Estate**
 - **Notice of Guardianship Petition**
 - **Declaration of Proposed Guardian**
 - **Order Appointing Guardian ad Litem and Notice of Hearing** (after it has been signed by a Court Commissioner)

One set of copies will be for your records; one set of copies will be for service on the Guardian ad Litem; one set of copies will be for service on the alleged incapacitated person; and one set of copies will be for the Court Commissioner's working copies. Additional copies may be necessary depending on the particular circumstances of your case. The originals will be for filing with the Clerk, as indicated below.

- Make at least one copy of the following completed forms:
 - **Case Assignment Designation and Case Information Cover Sheet**
 - **Oath of Guardian**
 - **Order Appointing Guardian of Person and/or Estate** (after it has been signed by a Court Commissioner at the scheduled hearing)
 - Each **Return of Service** form (after it has been completed and signed by the server)

The originals will be for filing with the Clerk, and the copies will be for your records.

- If you are not a certified professional guardian, view the 13-minute video, **"Instructions for Guardians"** or complete the web based training, **"Guardianship 101."**

The video or web based training may be accessed on the internet at the following website: <http://www.kingcounty.gov/courts/scforms/guardianship.aspx> or at one of the King County Courthouses. Call the Guardianship Facilitator for available times and exact locations at 206-296-9297.

Fill out the **Declaration of Completing Mandated Guardianship Training** after viewing the video or completing the web based training (be sure to attach the

certificate of completing Guardianship 101 to the Declaration if you take the web based training) and make at least 4 copies.

STEP 3: TALK TO AN ATTORNEY IF POSSIBLE

These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the King County Bar Association Lawyer Referral Line for information about limited services representation. If you cannot afford these costs, there are limited free legal services available to low income people. Contact the Facilitators' office for a Legal Resource List or the King County Bar Association Lawyer Referral Line for information about resources for low income people. Even if you do not hire a lawyer to represent you, a lawyer can look over your paperwork, give you advice on how to present your case, and whether this type of action is right for you.

STEP 4: FILE ORIGINALS OF SOME FORMS WITH CLERK, HAVE A GUARDIAN AD LITEM APPOINTED AND IF NECESSARY, REQUEST ADDITIONAL TIME TO COMPLETE MANDATORY GUARDIANSHIP TRAINING

*** If the alleged incapacitated person's assets are less than \$3,000.00:**

You may petition the court to waive the filing fee, have the Guardian ad Litem appointed at public expense and extend your time to complete or waive the mandatory guardianship training by doing the following:

- Complete the **Order Appointing Guardian ad Litem and Notice of Hearing** form by filling in the case caption, checking the boxes in Sections 3 and 5 of the Findings of Fact section, and indicating in Section 5 that the alleged incapacitated person's assets total less than \$3,000.00. Also, in the Order section, check the boxes indicating the Clerk's filing fee is waived and that the Guardian ad Litem shall be appointed at public expense. On the last page, sign where it says "Signature of Petitioner/Attorney", and fill in the Petitioner's name, address, telephone number, fax number, if any, and email address, if any.
- Complete the **Order To Extend Time or Waive Guardian Training** if you will not be completing the training prior to filing the case or you are requesting the requirement be waived.
- Present the **Petition for Guardianship of Person and/or Estate** form, **Order Appointing Guardian ad Litem and Notice of Hearing** form and **Order To Extend Time or Waive Guardian Training** form (if applicable) in the Clerk's Office to obtain a "present in person" stamp. Take the forms and present

them to the Ex Parte courtroom Clerk, indicating that you are seeking to have the filing fee waived and/or the Guardian ad Litem appointed at public expense. In Seattle the Ex Parte/Probate department is in room W325, and in Kent the Ex Parte/Probate department is in room 1J.

- If the Commissioner approves your Order(s), the courtroom Clerk will give you the name, and telephone number and/or address, of the Guardian ad Litem to fill in on the form. If the Commissioner does not waive the filing fee, you must pay the filing fee in order to file your case in the Clerk's Office.
- Make at least four copies of the original completed and signed **Order Appointing Guardian ad Litem and Notice of Hearing** form. One copy will be for your records; one copy will be for service on the Guardian ad Litem; one copy will be for service on the alleged incapacitated person; and one copy will be for the Court Commissioner's working copies. Additional copies may be necessary depending on the particular circumstances of your case. The original will be for filing with the Clerk.
- Proceed to the Clerk's Office and present the originals of the **Petition for Guardianship of Person and/or Estate, Case Assignment Designation and Case Information Cover Sheet, Order Appointing Guardian ad Litem and Notice of Hearing, Notice of Guardianship Petition, Declaration of Proposed Guardian and Declaration of Completing Mandated Guardianship Training (or Order To Extend Time to Complete Mandatory Guardianship Training)** to the cashier. The Clerk will issue you a case number, and will allow you to use the case number stamp to stamp the case number on the first page of your copies and remaining originals. You should also use the available date stamp machine to date stamp copies of the documents you have filed with the filing date (do not date stamp originals, or copies of documents which have not yet been filed).

* **If the alleged incapacitated person's assets are greater than \$3,000.00:**

You must file the Petition at personal expense as follows:

- Proceed to the Clerk's Office in Room E609 in Seattle, or Room 2C in Kent.
- Pay the filing fee and file the originals of the **Petition for Guardianship of Person and/or Estate, Case Assignment Designation and Case Information Cover Sheet, Notice of Guardianship Petition, Declaration of Proposed Guardian and Declaration of Completing Mandated Guardianship Training** forms. The Clerk will issue you a case number, and will allow you to use the case number stamp to stamp the case number on the first page of your copies and remaining originals. You should also use the available date stamp machine to date stamp copies of the documents you

have filed with the filing date (do not date stamp originals, or copies of documents which have not yet been filed).

- Complete the **Order Appointing Guardian ad Litem and Notice of Hearing** form by filling in the case caption and checking the box in Section 3 of the Findings of Fact section. Also, in the Order section, check the box indicating the Guardian ad Litem shall be appointed at private expense. On the last page, sign where it says “Signature of Petitioner/Attorney”, and fill in the Petitioner’s name, address, telephone number, fax number, if any, and email address, if any. The Court will write in the name, telephone number and /or address of the Guardian ad Litem who is assigned to the case and the date of the guardianship hearing when the Commissioner signs the order.
- Complete the **Order To Extend Time or Waive Guardian Training** if you will not be completing the training prior to filing the case or you are requesting the requirement be waived.
- Make 4 copies of the **Order Appointing Guardian ad Litem**. Present a copy of the **Petition for Guardianship, the original Order Appointing Guardian ad Litem** and the copies to the Clerk. If you are requesting an extension of time or a waiver of the training requirement, also present a copy of the **Order To Extend Time or Waive Guardianship Training**. Pay the Ex-Parte via the Clerk processing fee. Complete the ex-parte cover sheet and select the method for picking up your copies of the signed Order Appointing Guardian ad Litem. The Clerk will present the order to the Commissioner on your behalf. After the order has been signed the Clerk will automatically file the original (s) and return the copies of the Order Appointing Guardian ad Litem to you via the method you requested.

STEP 5: TELEPHONE THE GUARDIAN AD LITEM AND SERVE COPIES ON GUARDIAN AD LITEM
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Immediately after you receive the copies of the signed **Order Appointing Guardian ad Litem and Notice of Hearing**, telephone the Guardian ad Litem. Make arrangements to provide copies of the **Petition for Guardianship of Person and/or Estate, Order Appointing Guardian ad Litem and Notice of Hearing, Notice of Guardianship Petition, Declaration of Proposed Guardian and Declaration of Completing Mandated Guardianship Training** to the Guardian ad Litem by personal service (or as otherwise directed by the Guardian ad Litem).

STEP 6: HAVE THE ALLEGED INCAPACITATED PERSON SERVED, AND OBTAIN SERVICE ON OTHERS AS REQUIRED BY STATUTE
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Arrange for personal service, without delay, on the alleged incapacitated person by having someone other than a party to the case, who is at least 18 years old, hand

copies of the **Petition for Guardianship of Person and/or Estate, Order Appointing Guardian ad Litem and Notice of Hearing, Notice of Guardianship Petition, Declaration of Proposed Guardian and Declaration of Completing Mandated Guardianship Training** to the alleged incapacitated person, or to a person of suitable age and discretion who also resides at the house or usual place of abode of the alleged incapacitated person. The person who serves the papers must finish completing, and sign, the **Return of Service** form. Make at least one copy of the original completed and signed **Return of Service** form, and file the original in the Clerk's Office. Bring your copy with you to the scheduled hearing, in case the original has not yet made its way into the court records by the time of your hearing.

Copies of the completed documents must also be served by personal service, or sent by certified mail, return receipt requested (requesting the return receipt to be signed by the addressee or an agent appointed by the addressee), to the following persons:

- The alleged incapacitated person, or minor, if under fourteen years of age
- A parent, if the alleged incapacitated person is a minor
- All known children not residing with a notified person
- The spouse of the alleged incapacitated person, if any
- Any other person who has been appointed as guardian or limited guardian
- The person with whom the alleged incapacitated person resides
- Service need not be made on persons (other than the alleged incapacitated person – service on the alleged incapacitated person cannot be waived) who have either signed the Petition or have waived notice of the hearing.

A **Return of Service** should also be completed and signed by the server for each such service, a copy retained for your records, and the original filed in the Clerk's Office.

STEP 7: PROVIDE "WORKING COPIES" TO THE EX PARTE DEPARTMENT

Provide "working copies" (copies of the **Petition for Guardianship of Person and/or Estate, Order Appointing Guardian ad Litem and Notice of Hearing, Notice of Guardianship Petition, Declaration of Proposed Guardian and Declaration of Completing Mandated Guardianship Training**, together with copies of your proposed **Order Appointing Guardian of the Person/Estate**) to the Ex Parte department at least fourteen calendar days prior to the scheduled hearing date. In the upper right hand corner of the first page of this set of copies, write: "Working Copies, Ex Parte Dept.", and the date and time of the hearing. The Working Copies should be delivered to either the Ex Parte courtroom in the Seattle courthouse for Seattle (SEA) cases, or the Ex Parte/Probate courtroom at the Maleng Regional Justice Center for Kent (KNT) cases.

STEP 8: ATTEND HEARING; COPY AND FILE SIGNED ORIGINAL; OBTAIN LETTERS OF GUARDIANSHIP

Attend the hearing in the Ex Parte courtroom on the date set in the **Order Appointing Guardian ad Litem and Notice of Hearing**. The hearing should have been scheduled for 10:30 a.m. Hand your original **Order Appointing Guardian of Person and/or**

Estate to the courtroom Clerk, along with copies of any other documents requested of you. If appointed, run at least one copy of the original **Order Appointing Guardian of Person and/or Estate** signed by the Court Commissioner for your records, take the signed original to the cashier's window in the Clerk's Office for filing, and obtain at least one certified copy of Letters of Guardianship. There is a nominal fee for each copy of the Letters of Guardianship.

STEP 9: GUARDIAN'S RESPONSIBILITIES AFTER APPOINTMENT

- Within three months of the date of appointment (date of entry of the **Order Appointing Guardian of Person and/or Estate**):
 - Guardian must file with the Clerk's Office a completed **Designation of Standby Guardian**. Keep a photocopy for your records.
 - Guardian of the Estate must file with the Clerk's Office a complete and accurate **Guardianship Inventory** detailing the ward's assets, income and debts. Keep a photocopy for your records.
 - Guardian of the Person must file with the Clerk's Office a complete and accurate **Initial Personal Care Plan** detailing the ward's needs and capacity/functioning, the planned living arrangements for the ward, and medical and other pertinent information regarding the plan for the ward's care. Keep a photocopy for your records.
- Within 90 days of the one year, 24 month or 36 month anniversary date of the appointment (as indicated in the **Order Appointing Guardian of Person and/or Estate**):
 - File a completed and signed **Guardian's Report and Accounting**. See Facilitator Instruction G-4 for more detailed information on the Guardian's Report and Accounting process.
 - Have an **Order Approving Guardian's Report and Accounting** signed by an Ex Parte Court Commissioner.

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem but not represent you in court). If you need a lawyer, contact the Family Law Facilitators' Office for a *Legal Resource List* or call the King County Bar Association.